

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q79666

KENICHI SHIBA

Appln. No.: 10/769,776

Group Art Unit: 2871

Confirmation No.: 9279

Examiner: Wen Ying Patty CHEN

Filed: February 3, 2004

For: DISPLAY-POSITIONING MECHANISM

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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Appeal Brief

U.S. Application No. 10/769,776

I. REAL PARTY IN INTEREST

The real party in interest is FUJI PHOTO FILM CO., LTD. by virtue of an assignment executed by Kenichi Shiba (hereinafter "Appellant") on January 22, 2004 and recorded in the U.S. Patent and Trademark Office on February 3, 2004 at reel 014955 and frame 0701.

II. RELATED APPEALS AND INTERFERENCES

Upon information and belief, there are no other prior or pending appeals, interferences or judicial proceedings known to Appellant's Representative or the Assignee that may be related to, be directly affected by, or have a bearing on the Board's decision in the Appeal.

III. STATUS OF CLAIMS

Claims 1, 3 and 5-18 are pending and are the basis of this Appeal.

Claims 1, 3 and 5-18 stand rejected. See Claims Appendix for listing of claims.

IV. STATUS OF AMENDMENTS

Appellant did not amend the claims subsequent to the September 21, 2006 Final Office Action. Accordingly, all amendments, which have been made during prosecution of the present application, have been entered and are reflected in the attached Claims Appendix.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention is directed to a display-positioning mechanism for positioning a display. The features of independent claims 1 and 13 are described herein in reference to non-limiting embodiments of Appellant's specification.

Claim 1 - Claim 1 recites a display-positioning mechanism for positioning a display inside a casing which is structured by a first casing body 12 and a second casing body 30, the second casing body 30 being attached to the first casing body 12 (Fig. 1). The display-positioning mechanism is comprised of a base 14 which is fixed in the casing, a provisional fixing member 16 which attaches the display 20 to the base 14 such that the display 20 is movable within a predetermined range relative to the base 14, and a positioning portion 34 (Figs. 1-2; pg. 6, lines 14-25). The positioning portion 34 is for restricting movement of the display 20 at a time of attachment of the second casing body 30 to the first casing body 12, and retaining the display 20 at a predetermined position (pg. 7; lines 1-14). Furthermore, the base 14 is fixed to the first casing body 12, and the positioning portion 34 is provided at the second casing body 30 (Figs. 1 and 4; pg. 6, line 15).

Claim 13 - Claim 13 recites a display-positioning mechanism for positioning a display inside a casing which is structured by a first casing body 12 and a second casing body 30 in which a display aperture portion 32 is formed (Fig. 1). The second casing body 30 is attached to the first casing body 12 (Fig. 1). The display positioning mechanism is comprised of a base 14

which is fixed to the first casing body 12, a provisional fixing member 16 which attaches the display 20 to the base 14 such that the display 20 is movable within a predetermined range relative to the base 14 and a positioning portion 34 (Figs. 1-2; pg. 6, lines 14-25). The positioning portion 34 is provided at the second casing body 30 for restricting movement of the display 20 at a time of attachment of the second casing body 30 to the first casing body 12, and retaining the display 20 at an accurate position relative to the display aperture portion 32 (pg. 7, lines 1-14 and pg. 7, line 24 to pg. 8, line 1).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Claims 1 and 13 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,809,713 to Peng ("Peng").
- B. Claim 3 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng in view of U.S. Patent No. 5,775,233 to Kendall ("Kendall").
- C. Claims 5-7 and 14-18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng in view of U.S. Publication No. 2003/0058380 to Kim et al. ("Kim").
- D. Claims 8 and 9 under 35 U.S.C. § 103(a) stand rejected as allegedly being unpatentable over Peng in view of U.S. Patent No. 6,525,790 to Kan-o ("Kan-o").
- E. Claims 10 and 12 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng, Kan-o and U.S. Patent No. 6,665,025 to Lee ("Lee").
- F. Claim 11 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng, Kan-o, Lee and U.S. Patent No. 6,226,535 to Sun ("Sun").

VII. ARGUMENT

I. Rejections under 35 U.S.C. § 102(e) in view of U.S. Patent No. 6,809,713 to Peng (“Peng”)

The Examiner has rejected claims 1 and 13 under 35 U.S.C. § 102(e) as allegedly being anticipated by Peng.

A. Claim 1

Appellant submits that claim 1 is patentable over the cited reference. For example, claim 1 recites a base fixed to a first casing body and a provisional fixing member that attaches a display to the base such that the display is movable within a predetermined range relative to the base.

The Examiner maintains that the backing pad 2 discloses the claimed first casing body, the mobile clamps 4 disclose the claimed base and the bolt 43 and lock lug 51 disclose the claimed provisional fixing member (Fig. 2). However, Appellant submits that the alleged provisional fixing member 43, 51 does not attach the display to the base such that the display 5 is movable within a predetermined range. For example, Peng discloses the use of two mobile clamps 4 (alleged base) to hold the display 5 to the backing pad 2 (alleged first casing body). As shown in Figure 2 of Peng, the mobile clamps 4 can be provided in diagonal relation to one another, or the clamps can be slid along the grooves 26 to position at any point along the sides of the backing pad 2 (Figs. 2, 6, 7, 9; col. 2, lines 29-32; col. 3, lines 11-25). Since the display 5 is attached to the backing pad 2 at each side thereof via the two mobile clamps 4, the display 5 is incapable of moving within a predetermined range relative to the mobile clamps 4 (alleged base),

as recited in claim 1. The Examiner appears to rely on only a *single* mobile clamp 4 being used (top of pg. 3 of Office Action). However, the reference clearly teaches that at least two (i.e., a “plurality”) of mobile clamps 4 are used (see portions of reference cited above).

In the December 28, 2006 Advisory Action, the Examiner responds to the above arguments by maintaining that “even if two corners of the display is attached to two clamps, the other two corners are well capable of movements (up and down).” Appellant submits that this alleged scenario would be impossible since the LCD 5 (alleged display) is comprised of a single, somewhat rigid member. If two corners of the LCD 5 are clamped down, the remaining two corners would be incapable of moving. The Examiner further maintains that, “depending on how tightly or loosely the display is fixed to the clamp or during the process of completely fixing the display to the clamps, the display would be capable of moving relative to the clamps” (attachment to Advisory Action). Appellant respectfully traverses this position as well. For example, since the clamps 4 are bolted to the LCD panel, on either side thereof, movement of the clamps in an up or down manner would likewise move the LCD panel in an up or down manner. Therefore, the LCD panel 5 would move “with” the clamps 4 rather than “relative to” the clamps 4.

Claim 1 further recites a positioning portion that retains the display at a predetermined position.

The Examiner maintains that the bolt hole 16 of Peng discloses the claimed positioning portion. The bolt hole 16 is part of the concave rib 13 of the front molding 1 (alleged second casing body (Fig. 13)). The bolt hole 16 corresponds to the bolt hole 29 of the backing pad 2

(alleged first casing body). The front molding 1 and the backing pad 2 are held together by a bolt passed through the bolt holes 16 and 29 (col. 3, lines 43-51). Appellant submits that such portion fails to provide any type of positioning portion that retains the display 5 at a predetermined position. In particular, the bolts holes 16 and 29 do not contact the display 5 at all. Rather, as set forth above, it is the mobile claims 4, placed on either side of the backing pad 2, that hold the display 5 to the backing pad 2.

In the December 28, 2006 Advisory Action, the Examiner responds to the above argument by maintaining that at the time of attachment, the bolts holes 16 and 29 would result in retaining the display at a predetermined position. However, the attaching of the front molding 1 to the backing pad 2 does not retain the LCD 5 at a “predetermined” position. Rather, it is the clamps 4 that actually restrain or restrict movement of the LCD 5 in a desired, predetermined position.

Finally, claim 1 recites that the positioning portion is provided at the second casing body.

Applicant submits that since the positioning portion is provided at the second casing body, the display is positioned more accurately relative to the second casing body than the first casing body. The bolt hole 29 (alleged positioning portion) of Peng is not provided at the front molding 1 (alleged second casing body).

At least based on the foregoing, Appellant submits that claim 1 is patentable over the cited reference.

B. Claim 13

Since claim 13 contains analogous features as recited above for claim 1, Appellant submits that claim 13 is patentable for at least analogous reasons as claim 1.

II. Rejection under 35 U.S.C. § 103(a) in view of Peng and U.S. Patent No. 5,775,233 to Kendall (“Kendall”)

The Examiner has rejected claim 3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng in view of Kendall. However, since claim 3 is dependent upon claim 1, and Kendall fails to cure the deficient teachings of Peng, in regard to claim 1, Appellant submits that claim 3 is patentable at least by virtue of its dependency.

III. Rejections under 35 U.S.C. § 103(a) in view of Peng and U.S. Publication No. 2003/0058380 to Kim et al. (“Kim”)

The Examiner has rejected claims 5-7 and 14-18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng in view of Kim. However, since claims 5-7 and 14-18 are dependent upon one of claims 1 or 13, and Kim fails to cure the deficient teachings of Peng, in regard to claims 1 and 13, Appellant submits that claims 5-7 and 14-18 are dependent at least by virtue of their dependency.

IV. Rejections under 35 U.S.C. § 103(a) in view of Peng and U.S. Patent No. 6,525,790 to Kan-o (“Kan-o”)

The Examiner has rejected claims 8 and 9 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng in view of Kan-o. However, since claims 8 and 9 are dependent upon claim 1, and Kan-o fails to cure the deficient teachings of Peng, in regard to claim 1, Appellant submits that claims 8 and 9 are patentable at least by virtue of their dependency.

In addition, claim 8 recites a resilient member for pushing the display against an inner face of the second casing body.

The Examiner acknowledges that Peng fails to disclose the claimed resilient member, but contends that Kan-o does. However, irrespective of whether Kan-o discloses a resilient member, Appellant submits that one skilled in the art would not be motivated to provide a resilient member to push the display 5 of Peng against an inner face of the front molding 1 (alleged second casing body) because the display 5 is incapable of being pushed forward. As set forth above in Appellant’s remarks regarding claim 1, the display 5 is clamped on each side thereof by the mobile clamps 4. Thus, the alleged resilient member of Kan-o would have no purpose in the apparatus of Peng. Accordingly, Appellant submits that one skilled in the art would not be motivated to modify the teachings of Peng in the manner set forth by the Examiner.

In the December 28, 2006 Advisory Action, the Examiner responds to the above argument by maintaining that the display of Peng is vulnerable to external impacts and therefore, one of ordinary skill in the art would have the desire to employ the alleged resilient members of Kan-o therein. Appellant respectfully traverses this position. There is nothing disclosed in Peng

that would suggest that the structure is vulnerable to external impacts. Furthermore, the alleged resilient member 44 of Kan-o is actually a projection part of the bracket 4 and base plate 40 (Fig. 1; col. 9, lines 11-12). The projection part 44 is provided with screw holes for attaching the LCD unit 3 to the bracket 4. Such projections 44 do not push the LCD unit 3 against case 1 or case 2, one of which would presumably disclose a type of second casing body. Rather, the combination of the projection parts 44 and the fixing pieces 5 of Kan-o perform the same function as the clamps 4 of Peng, for attaching a base member to a display. Accordingly, even if the references were combined, the alleged combination would still lack a resilient member "for pushing the display against an inner face of the second casing body."

At least based on the foregoing, Appellant submits that claim 8 is patentable over the cited references.

V. Rejections under 35 U.S.C. § 103(a) in view of Peng, Kan-o and U.S. Patent No. 6,665,025 to Lee ("Lee")

The Examiner has rejected claims 10 and 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng, Kan-o and Lee. However, since claims 10 and 12 are dependent upon claim 1, and Kan-o and Lee fail to cure the deficient teachings of Peng, in regard to claim 1, Appellant submits that claims 10 and 12 are patentable at least by virtue of their dependency.

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VI. Rejection under 35 U.S.C. § 103(a) in view of Peng, Kan-o, Lee and U.S. Patent No. 6,226,535 to Sun ("Sun")

The Examiner has rejected claim 11 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Peng, Kan-o, Lee and Sun. However, since claim 11 is dependent upon claim 1, and Kan-o, Lee and Sun fail to cure the deficient teachings of Peng, in regard to claim 1, Appellant submits that such claim is patentable at least by virtue of its dependency.

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373

CUSTOMER NUMBER

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CLAIMS APPENDIX

CLAIMS 1, 3 and 5-18 ON APPEAL:

1. (REJECTED) A display-positioning mechanism for positioning a display inside a casing which is structured by a first casing body and a second casing body, which is attached to the first casing body, the mechanism comprising:

a base which is fixed in the casing;

a provisional fixing member which attaches the display to the base such that the display is movable within a predetermined range relative to the base; and

a positioning portion for restricting movement of the display at a time of attachment of the second casing body to the first casing body, and retaining the display at a predetermined position,

wherein the base is fixed to the first casing body, and

wherein the positioning portion is provided at the second casing body.

3. (REJECTED) The display-positioning mechanism of claim 1, wherein the provisional fixing member comprises a stepped screw.

5. (REJECTED) The display-positioning mechanism of claim 1, wherein the positioning portion comprises a plurality of projections capable of restricting movement of the display.

6. (REJECTED) The display-positioning mechanism of claim 5, wherein the projections are capable of restricting movement of the display in all directions.

7. (REJECTED) The display-positioning mechanism of claim 5, wherein the projections are formed integrally with the second casing body.

8. (REJECTED) The display-positioning mechanism of claim 1, further comprising a resilient member for pushing the display against an inner face of the second casing body.

9. (REJECTED) The display-positioning mechanism of claim 8, wherein the display comprises a frame portion, and the resilient member is formed integrally with the frame portion.

10. (REJECTED) The display-positioning mechanism of claim 8, wherein the base comprises a reference potential terminal for maintaining a reference potential of the display.

11. (REJECTED) The display-positioning mechanism of claim 10, wherein the resilient member comprises functionality as a reference potential-receiving terminal which is capable of electrically contacting with the reference potential terminal for maintaining the reference potential of the display.

12. (REJECTED) The display-positioning mechanism of claim 10, further comprising, separately from the resilient member, a reference potential-receiving terminal which is capable of electrically contacting with the reference potential terminal for maintaining the reference potential of the display.

13. (REJECTED) A display-positioning mechanism for positioning a display inside a casing which is structured by a first casing body and a second casing body in which a display aperture portion is formed, and which is attached to the first casing body, the mechanism comprising:

 a base which is fixed to the first casing body;

 a provisional fixing member which attaches the display to the base such that the display is movable within a predetermined range relative to the base; and

 a positioning portion which is provided at the second casing body for restricting movement of the display at a time of attachment of the second casing body to the first casing body, and retaining the display at an accurate position relative to the display aperture portion.

14. (REJECTED) The display-positioning mechanism of claim 13, wherein the positioning portion comprises a plurality of projections capable of restricting movement of the display.

15. (REJECTED) The display-positioning mechanism of claim 14, wherein the projections are capable of restricting movement of the display in all directions.

16. (REJECTED) The display-positioning mechanism of claim 13, wherein the projections are formed integrally with the second casing body.

17. (REJECTED) The display-positioning mechanism of claim 14, wherein the projections are formed integrally with the second casing body.

18. (REJECTED) The display-positioning mechanism of claim 15, wherein the projections are formed integrally with the second casing body.

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EVIDENCE APPENDIX:

NONE

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RELATED PROCEEDINGS APPENDIX

NONE

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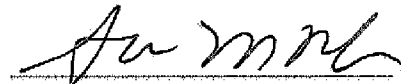
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Sir:

Submitted herewith please find an Appeal Brief. The statutory fee of \$500.00 is charged to Deposit Account No. 19-4880 via the EFS payment screen. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

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